

APPEAL NO. 020766
FILED MAY 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 26, 2002,. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant appeals the determinations on sufficiency grounds. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

COMPENSABLE INJURY

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant asserts that the hearing officer erred in considering her prior medical and criminal records. Our review indicates that the claimant did not object to the admission of these records at the CCH. The asserted error was, therefore, waived and will not be considered on appeal.

The claimant attached new evidence to her appeal, which would purportedly show that she sustained a compensable injury on _____. Documents submitted for the first time on appeal are, generally, not considered unless they constitute newly discovered evidence. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would produce a different result and therefore, does not meet the requirements for newly discovered evidence and so it will not be considered on appeal. Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ).

DISABILITY

The hearing officer did not err in determining that the claimant did not have disability. The 1989 Act requires the existence of a compensable injury as a prerequisite

to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have a disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**C.T. CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Roy L. Warren
Appeals Judge